



# WOMEN'S RIGHTS THROUGH LEGAL REMEDIES

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## ABSTRACT

Violence against the women affected the millions of women throughout the world. Women are considered second to men. The social system which is still 'Patriarchal' wherein the system of society or government controlled by men. Majority of the decision makers are the men. The whole functioning of the society is managed by the men in all aspect. Hence, men keep the women as second to him. Men with muscle power, dominate and control women. Women are continue to be pasteurized as weaker sex. This lead to all sorts of ATROCITIES on women by men. The remedy is to harmonize the public, law implementing agencies and the Judiciary.

## INTRODUCTION:

Women are considered as third class commodity in the Indian society. This is not an exaggeration. They are the victims of humiliation in certain situations, when they are illiterate, exploited, when they are orphans, tortured by the men of uncivilized. It is a recorded proof wherein women were treated as house maid, a sincere slave of husband, and worker who has to fulfill the needs of the family members. They are not eligible for property rights, they do not have any rights to contribute in decision making. So there is, surprisingly, even to this date, need for strict implementations of the laws enacted for various purposes.

The hard core violence against women continue to exist at every level of their life. The physical mauling by their husbands and relatives of a newly married girl put her self esteem to disaster. The next is the worst form of mental violence using derogatory words which weaken her moral strength leading suicide. The other form is where the women is pushed to a state of mental status to accept herself to accept her present married precarious conditions as part of her everyday life.

## DISCUSSIONS:

Now let us see the range of violence meted out to women in India.

1. Rape 2. Sati 3. Kidnapping & Abduction, 4. Trafficking and prostitution 5. Killing for Dowry, Dowry Deaths or their attempts 6. Mental and Physical Torture 7. Molestation 8. Offences related to Marriage 9. Acid Attacks 10. Honour Killing 11. Devadasi system

### Rape:

In 2016, of the 3.38 lakh crime cases against women, rape cases made up 11.5% of them. But with only 1 in 4 rape cases ending up in conviction, it's a painfully slow road to justice for rape victims in the country<sup>1</sup>. May 15, 780 cases of rape were reported - which boils down to an average of over 5 cases each day. Compared to the number of cases in 2017 upto May 15, data shows a 3.03% increase in the number of rapes reported in the country's capital<sup>2</sup>.

The term 'rape' was mentioned first time in the legal structure of IPC in 1860. Section 375 to Section 376 E of the Indian Penal Code refers to 'sexual offenses'. However, Section 377 criminalizes both participants while including male victims in Section 375 would have criminalized only the rapist and not the victim. The 1860 version of the IPC also ignored sex without consent between a husband and wife (aka marital rape), a clause that is missing. The Mathura Rape Case in 1972 was a notable one in this direction<sup>3</sup>. Mathura was 14, when they raped her. she lived in utter poverty. Though two policemen were convicted by the trial court, the High court set free the policemen. The amendments introduced after Nirbhaya case for rape victims now have pseudonyms.

Previously any man who had sex with a married woman, without the permission of her husband, had committed a crime. While reading out the judgement on adultery, Chief Justice Dipak Misra said that while it could be grounds for civil issues like divorce, "it cannot be a criminal offence".

### Sati/Suttee:

An ancient Indian tradition of the immolation of a widow on her husband's funeral pyre<sup>4</sup>. Though this practice came in to noticed dated back to the 4<sup>th</sup> century BC<sup>5</sup>. It is a religious funeral practice among some Indian communities in which a recently widow either voluntarily or by use of force and coercion would have immolated on her husband's funeral pyre<sup>6</sup>.

### Warren Hastings, -1732-1818

Warren Hastings as the Governor-General of India from 1732-1818, despite the fact that himself describes the whole thing as "shocking to humanity, but he believed in respecting Indian ways. However, the Mughal Emperor Akbar tried to "prevent any woman being forcibly burnt" (Yule and Burnell, 1886)<sup>7</sup>. The Bengali reformer Rajah Rammohun Roy (1772-1833) persuaded the to ban this practice and eventually after so many protest from some Hindu groups, in December 1829, the Governor-General, Lord William Bentinck banned through an Act. To our surprise this ugly practice surprised every one in Rajasthan through Roopkumar Kanwar, who was a Rajput woman who was immolated at Deorala village of Sikar district in Rajasthan, after her husband Maal Singh Shekhawat died<sup>8</sup>. Hence, the act Commission of Sati (Prevention) Act, 1987.

### Killing for Dowry, Dowry Deaths or their attempts:

The custom of payment of dowry by the bride's family to the prospective bridegroom's family is ancient and widely prevalent. One of the many explanations for it is that it is a form of compensation to the groom's family for sheltering the woman for life (Ahmad, 2008)<sup>9</sup>.

The Dowry Prohibition Act in India was passed in 1961 and amended twice in 1984 and 1986<sup>10</sup>. Husbands resort for murdering wives in India is mainly for economic reasons. Get remarried and get more dowry. Men abandon or divorce wives, or commit bigamy believes that economics are the sole reason.

Section 498A IPC penalizes harassment (or any kind) of a woman by her marital family, this section is used only when it was related to dowry, omitting general violence faced by women. So wife beating had to be accompanied by dowry demand to use this section. The law is not usable and became ineffective when no complaints about unreasonable dowry demand are made. The assumption is that death due to dowry related would occur within 7 years. Section 306, abetment to suicide will be used.

The amendments enacted to the Indian Evidence Act (IEA) introduced a presumption 'abetted suicide' which is a form of dowry death, and a separate presumption of dowry death (Ravikanth, 2000)<sup>10</sup>. Section 113A of the IEA powers the court to presume abetment the crime to the husband or his relatives if a married woman commits suicide within 7 years of marriage. Section 113B still goes further to empower the courts 'shall' presume dowry death in case of unnatural death of a woman within 7 years of marriage, wherein, prior to death of the victim, either the husband or his relatives committed harassment or cruelty.

## CONCLUSIONS:

There is a host of laws enacted in India to combat the menace of cruelty on women, like Trafficking and prostitution, Kidnapping & Abduction, Mental and Physical Torture, Molestation, Offences related to Marriage, Acid Attacks 10. Honour Killing, Devadasi system etc. So, there is a need for combined action of public, law enforcing machineries and the final authorities the Judiciary to protect the women of India.

## FOOTNOTES:

1. <https://timesofindia.indiatimes.com/india/over-30000-rape-cases-only-1-in-4-convicted/articleshowprint/63748925.cms>
2. <https://www.newsclick.in/rise-reported-rape-cases-2018-police-data-reveals>
3. Tuka Ram And Anr vs State Of Maharashtra on 15 September, 1978
4. Sophie Gilmartin. 1997. The Sati, the Bride, and the Widow: Sacrificial Woman in the Nineteenth Century, Victorian Literature and Culture, Cambridge University Press, Vol. 25, No. 1, page 141. Quote: Suttee, or sati, is the obsolete Hindu practice in which a widow burns herself upon her husband's funeral pyre...

5. Eraly, Abraham. 2014. *The First Spring: The Golden Age of India*. Penguin. p. 370.
6. "SATI" (<http://www.sos-sexisme.org/english/sati2.htm>). Sos-sexisme.org
7. Yule, Henry, and A. C. Burnell. 1886. *Hobson-Jobson: The Anglo-Indian Dictionary*. Ware, Herts.: Wordsworth
8. "The New York Times, 1987". 20 September 1987.
9. Ahmad, N. 2008. Dowry deaths (bride burning) in India and abetment of suicide: a socio-legal appraisal. *J. East Asia Int. Law.*, 1(2):275-289.
10. Agnes, F. 1993. Marital murders -- the Indian reality., *Health Millions*. Feb;1(1):18-21.
11. Ravikanth N. Dowry deaths: proposing a standard for implementation of domestic legislation in accordance with human rights obligations. *Mich. J. Gend. Law*. 2000; 6:449-497.
12. Jyoti Belura, Nick Tilleya, Nayreen Daruwallab, Meena Kumarc, Vinay Tiwarid, and David Osrin. 2014. The social construction of 'dowry deaths'. *Soc Sci Med.*, 119:1-9.